



N A R U C
National Association of Regulatory Utility Commissioners

April 30, 2019

The Honorable Bobby Rush
Chairman
Subcommittee on Energy
House Committee on Energy & Commerce
Washington, DC 20515

The Honorable Fred Upton
Ranking Member
Subcommittee on Energy
House Committee on Energy & Commerce
Washington, DC 20515

RE: “The State of Pipeline Safety and Security in America” Hearing

Dear Chairman Rush and Ranking Member Upton:

On behalf of the National Association of Regulatory Utility Commissioners (NARUC) and the National Association of Pipeline Safety Representatives (NAPSR), I would like to commend you for holding a hearing regarding pipeline safety. As the House Committee on Energy and Commerce, Subcommittee on Energy begins the legislative process to reauthorize the Pipeline Safety Act, we would like to bring to your attention three priority issues that State public utility regulators and State pipeline safety inspectors believe must be addressed in any reauthorization proposal. Additionally, we respectfully request that this letter be included in the record of the hearing on “The State of Pipeline Safety and Security in America” to be held on May 1, 2019.

Currently, State Utility Commissions and State inspectors have direct safety authority over 2.1 million of the approximately 2.5 million miles of pipelines in the United States. State regulators and State pipeline safety inspectors are the mainstay for pipeline safety, and do a majority of the pipeline safety work. This work provides states with the most intimate knowledge of pipelines located in our respective jurisdictions.

In the federal/State partnership (between the Pipeline and Hazardous Material Safety Administration (PHMSA) and the States), States retain responsibility for the safety of about 84% of the pipelines.

State safety inspectors are the first line of defense at the community level. We enforce pipeline safety, enact and enable underground utility damage prevention programs, and promote public education/public awareness campaigns regarding pipeline safety. The obvious focus of State pipeline safety programs is to ensure public safety.

To successfully complete our mission we are asking Congress to include the following provisions in any Pipeline Safety Act reauthorization legislation:

1. Increase PHMSA’s State Funding Budget for State Pipeline Safety Programs BASE GRANT

The percentage of total reimbursement from PHMSA to the collective State programs has been averaging approximately 67% to 68% since 2016 (approximately \$50 to \$53 million dollars). FY 2018 and FY 2019 reimbursements are estimated to be \$50 - \$56 million dollars each but this has been accomplished by PHMSA repurposing dollars rather than placing them in the appropriate State program line item. States are authorized by Congress to receive up to 80%. This total aggregated percentage is comprised of 2 parts: direct costs and indirect costs. Direct costs are the majority of the expenses for State pipeline programs. This reimbursement is predominantly made up of labor and benefits. Indirect costs primarily consist of allocated costs of State computer systems and other centralized State systems used to support the programs. We request that the total State reimbursement and authorization level be increased to the full 80%, as authorized by Congress, which projects to approximately \$70,750,000 for FY 2020, increases to \$75,000,000 in FY 2021, increases to \$79,500,000 in FY 2022, and increases to \$84,250,000 for FY 2023.

2. Combining State Damage Prevention Grants with the One Call Grants

There are two supplementary grants for which State Programs are eligible. The first are known as **State Damage Prevention Grants** and were initially mandated in the 2006 Reauthorization. They were intended to support any entity that the Governors deemed worthy to receive them. Grantees are allowed up to \$100,000 per applicant and

typically many States apply to use the funds for Damage Prevention enforcement. The total appropriation in a given year is \$1,500,000. One Call Centers may also apply for the grants and may compete against State pipeline safety programs for the grant within a State.

The second type of supplementary grants are known as **One Call Grants**. They were mandated in 1993. This money is only available to the State pipeline safety programs. The total amount is approximately \$1,000,000 spread out over the applicants (State programs). The \$1,000,000 appropriation has not increased since 1993 (Section 6107 Pipes Act). The original intent was to bolster the creation of 811 centers and the application of the 811 Call Before You Dig initiative. Now, States primarily use the money for enforcement and for support of Damage Prevention education in their States.

We request that the State Damage Prevention Grants and the One Call Grants be combined into a single Damage Prevention Grant program. The availability should be limited to State pipeline safety programs only (modeled after the One Call Grants). If States desire to subcontract grants to One Call Centers, that is also currently allowable and would continue. If combined, we recommend the funding level to be increased to \$5,000,000.

3. “Up to 4%” Penalty

The “up to 4%” penalty is found in 49 CFR Part 198.53 and may be accessed on States that have been deemed “inadequate” in their State damage prevention (i.e. Adequacy of One-Call law Enforcement Programs) evaluation by PHMSA. As the State pipeline safety programs are not in a position to legislate changes to the State damage prevention regulations but only advise, placing the burden of a 4% penalty on the State pipeline safety programs does not recognize that there are many other stakeholders that can contribute to a State receiving penalties and that should also share the burden of improving the State damage prevention laws. This system places the penalties on those who are responsible for safety instead of those who are causing the inadequacy. Penalizing State safety programs with reduced funding does little to advance pipeline safety.

Chairman Rush and Ranking Member Upton, thank you for your time and consideration and we look forward to working with you and your staff as the legislative process moves forward.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Wagner", with a stylized, cursive script.

Nick Wagner
NARUC President
Commissioner, Iowa Utilities Board